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Arizona Corporation Commr

DOCKETED

BEFORE THE ARIZONA CORPORATION COMMISSION

APR 21 1999

JIM IRVIN  
Commissioner - Chairman  
TONY WEST  
Commissioner  
CARL J. KUNASEK  
Commissioner

DOCKETED BY

IN THE MATTER OF THE APPLICATION )  
OF U S WEST COMMUNICATIONS, INC., )  
FOR APPROVAL OF THE PHASE TWO )  
RESALE AGREEMENT WITH NET-TEL )  
CORPORATION )

DOCKET NOS. T-01051B-99-0130  
T-03548A-99-0130

DECISION NO. 61652

ORDER

Open Meeting  
April 19 and 20, 1999  
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On March 4, 1999, U S WEST Communications, Inc. (U S WEST) filed an application for approval of an agreement for service resale between U S WEST and Net-Tel Corporation (Net-Tel).

2. The term of the agreement runs from the date of Commission approval until January 31, 2001. The parties agree to commence negotiations on a new agreement no later than 160 days prior to this termination date.

3. The agreement governs the terms and conditions under which U S WEST will resell its services to Net-Tel.

4. The Telecommunications Act of 1996 (1996 Act) directed incumbent local exchange carriers to make their networks available for interconnection and resale by new entrants to the local exchange market. The 1996 Act provided for interconnection and resale agreements to be concluded by voluntary agreement. This resale agreement between Net-Tel and U S WEST was voluntarily negotiated, without resort to arbitration.

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1           5.     Under terms of the agreement, U S WEST will make certain local exchange services  
2 available to Net-Tel at prices contained within the agreement and under the terms and conditions of  
3 the agreement. Generally, U S WEST residential services will be made available to Net-Tel for resale  
4 at a 12 percent discount. Business services will be available at an 18 percent discount.

5           6.     According to the 1996 Act and State Rule, the Commission must approve voluntarily  
6 negotiated interconnection and resale agreements, if their provisions are non-discriminatory and in the  
7 public interest. U S WEST has asserted that the provisions of the U S WEST/Net-Tel agreement are  
8 non-discriminatory and in the public interest. Staff has reviewed the agreement and finds it to be non-  
9 discriminatory and in the public interest.

10          7.     Therefore, since there are no grounds for rejection of the agreement pursuant to Section  
11 252(e)(2)(A) of the 1996 Act, Staff recommends that the Commission approve the resale agreement  
12 between U S WEST and Net-Tel.

#### 13                                   CONCLUSIONS OF LAW

14          1.     U S WEST and Net-Tel are Arizona public service corporations within the meaning  
15 of Article XV, Section 2, of the Arizona Constitution.

16          2.     The Commission has jurisdiction over Net-Tel and U S WEST and over the subject  
17 matter of the application.

18          3.     The Commission, having reviewed the application and Staff's memorandum has  
19 determined that the resale agreement negotiated between U S WEST and Net-Tel meets the  
20 requirements of the 1996 Act including section 252(e)(2)(A) of the 1996 Act which governs approval  
21 of voluntarily negotiated agreements and is in the public interest.

22          4.     The Commission maintains jurisdiction over the subject matter of the agreement and  
23 Amendments thereof, to the extent permitted pursuant to the powers granted the Commission by the  
24 Arizona Constitution, Statutes, Commission Rule, and the 1996 Act and the Rules promulgated  
25 thereunder.

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ORDER

THEREFORE, IT IS ORDERED that the resale agreement as filed by the parties on March 4, 1999 be and hereby is approved.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

**BY ORDER OF THE ARIZONA CORPORATION COMMISSION**

COMMISSIONER - CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, STUART R. BRACKNEY, Acting Executive Secretary of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this 21 day of April, 1999.

STUART R. BRACKNEY  
Acting Executive Secretary

DISSENT \_\_\_\_\_

RTW: MJR:sjs\MAS